

NO. 48680-6-11

IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION 2

FILED  
COURT OF APPEALS  
DIVISION II  
2016 AUG 4 AM 11:18  
STATE OF WASHINGTON  
BY                       
DEPUTY

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LINDA TIOKASIN-ORR

Plaintiff,

vs

ESTATE OF PATRICIA SPRUANCE ORR

Defendant.

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APPEAL FROM CLARK COUNTY SUPERIOR COURT

Honorable Robert Lewis, Judge

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BRIEF OF APPELLANT

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By Linda Tiokasin-Orr

Pro se

Address:

4616 NE 134<sup>th</sup> St

Vancouver, WA 98686

360-601-3152

## TABLE OF CONTENTS

	Page
I. NATURE OF THE CASE .....	1
II. ASSIGNMENTS OF ERROR .....	2
III. ISSUES PRESENTED .....	2
IV. STATEMENT OF THE CASE .....	2
V. ARGUMENT .....	5
VI. CONCLUSION .....	8

## TABLE OF AUTHORITIES

	Page
Tegland and Ende, 15A Washington Practice: Washington Handbook on Civil Procedure Paragraph 14.1 to 14.14 (2009-2010 ed.) .....	5-6

## **I. NATURE OF THE CASE**

Appellant Linda Tiokasin-Orr was injured by one of the 4 liens placed and held unethically for 18 months on her properties. Appellant was denied the ability to refinance her home during the 18 months one of the lis pendens was on her residence.

Appellant had presented evidence to the legal counsel of Pat Orr that demonstrated Pat did not have a basis for encumbering her property. Despite this, the liens remained from October, 2012, through March, 2014.

In March, 2014, Appellant, acting pro se, scheduled a hearing for their dismissal, damages, fees, and cost. Upon being served, Pat's attorney immediately filed an ex parte motion to have them removed "voluntarily", with prejudice, without disclosing to the court that a hearing had already been scheduled, and declared that no damages were due.

Appellant continued with her Complaint for Damages in October, 2014, which went to trial in November, 2015. The trial court found in favor of the Defendant because it was found that at the time she filed she had substantial basis for filing the lis pendens.

## **II. ASSIGNMENTS OF ERROR**

The trial court erred in its finding that no damages were due because Pat believed she had substantial justification in placing the lis pendens, without addressing the delay in having them removed on January 15, 2016.

## **III. ISSUES PRESENTED**

A. Was Pat substantially justified to hold the lis pendens in place for 17 months after learning she had no substantial justification?

B. Is this not indicative of knowledge of a wrongful action for Pat's counsel to attempt to thwart the scheduled hearing by removing them with an ex parte motion to dismiss with prejudice?

## **IV. STATEMENT OF THE CASE**

Pat Spruance Orr had asked her husband, David Orr, to sign a spousal maintenance agreement in 2003 based on her sworn financial statement to the court of Clark County that she had no assets or income. David willingly signed this agreement without benefit of counsel or discovering that Pat had concealed the entirety of their marital assets from him. RP 13, March 4, 2016

David relied on his 2<sup>nd</sup> wife's assistance, Appellant Ms. Tiokasin-Orr, to support Pat's maintenance and extra demands as well as support his business start up expenses. Appellant in the form of loans provided about \$800,000 to her husband. RP 17, Nov 23, 2015

By mid 2011, Appellant and her then husband David could no longer meet their own needs. The difference between what had been given Pat and the agreed upon maintenance was \$45,650 when Pat sued David for contempt of court in 2012 and asked for his imprisonment and \$60,000 in unpaid maintenance. After providing the court with records proving approximately \$30,000 in extra payments, a judgment was made for \$30,000 in unpaid maintenance. Pat appealed and won the full \$60,000 with no argument placed by David's attorney. CP 43, page 3

David made an offer in July 2012 to pay Pat \$30,000 and continue maintenance at a reduced rate by selling a condo bought with his recent inheritance. Pat refused and demanded the full \$60,000 and his imprisonment. CP 43, page 3

Appellant legally separated from David in August, 2012, and later divorced. During their marriage, Appellant had provided David with approximately \$800,000 in loans for spousal maintenance, business start-

up expenses so that he may someday support Pat, and his refi mortgage payments that provided Pat with her \$233,600 at divorce. Appellant also absorbed David's \$60,000 in credit card debts which he had used to pay Pat. In partial repayment of these loans, David deeded Appellant his 2 condos bought with his inheritance and valued at approximately \$300,000. This still left him in arrears on his loans to the Appellant by about \$560,000. RP 43-44, November 23, 2015

Pat subsequently sued David and Appellant in a civil suit in Clark County Superior Court No. 12-2-04136-2 for fraudulent transfer, accusing Appellant and David of transferring property for no value, and asked for his imprisonment. CP 45, page 4

Appellant quickly provided financial records to Pat and her attorneys proving that the transfer had been done in good faith and for fair value. CP 45, page 2

Pursuant to ethical behavior required by the State of Washington in Washington Handbook on Civil Procedure, this should have triggered an immediate withdrawal of all the lis pendens. Pat chose not to remove them, however, and this is the reason her estate is liable for the damages that ensued.

## V. ARGUMENT

Placing four lis pendens on Appellant's property in October, 2012 was not the source of the damages. Keeping them in place once they were proven to be a misapplication of law was.

During the Defendant's hearing to Request for Attorney's Fees, March 4, 2016, Judge Lewis restates the case as follows:

*The only issue before me at that trial, in – in addition to damages, was whether at the time the lis pendens was filed, that Ms. Orr had a substantial basis for filing the lien. Not whether she'd ultimately prevail. Not anything else that happened years before or years after. But whether at the time that she filed the lien, there was a substantial basis for doing so. RP 15-16, March 4, 2016*

If Pat had acted appropriately and had the lis pendens removed after learning that she had no substantial justification there would have been no damages. Ethical practice requires that Pat should have had them removed when she discovered that she, in fact, had no substantial justification. Washington Practice Series: Handbook on civil Procedure, Second Edition, Volume 14, paragraph 7.8 says



*In the event that the action is later dismissed, or if the appellant elects not to pursue an action after recording a notice of lis pendens, ethical practice requires that the appellant take steps to remove the clouds on the defendant's title.*

Pat took no action to either pursue her case or drop the lis pendens until Appellant filed for a motion to be held for dismissal, damages, fees, and costs in March, 2014. CP 3, page 3

As it was the Appellant's scheduled hearing that spurred Pat's counsel to remove them first with an emergency ex parte Order of Appellant's Dismissal with Prejudice , Appellant "prevailed on her motion to cancel the lis pendens" within the meaning of RCW 4.28.328. It also demonstrated the malfeasance at the heart of keeping the lis pendens in place as Pat's counsel insists that the ex parte motion was done voluntarily. CP 30, page 4

If Pat had substantial justification she would have acted to pursue her case instead of having her attorney beat Appellant to the courthouse with an unethical and unconstitutional attempt to deny Appellant due process.

Pat had no basis for maintaining the lis pendens any more than she had of placing them against the Appellant's separate property bought and paid for prior to marriage. The intent, as indicated in the many abusive emails Pat sent to David, was malice. CP 45 pages 4-5

Pat knew when she placed the lis pendens on Appellant's property that her basis, the \$60,000 judgment was gained by perjured testimony during her request for spousal maintenance. Pat was aware that she was never in need of spousal maintenance due to her misappropriation of 41 years of her husband, David's, income. Pat used the laws of the State of Washington to complete another 10 years of financial abuse and malfeasance against her ex-husband, David, and Appellant. CP 45, pages 2 and 4-5

Pat has been assumed to have placed the lis pendens in good faith. As evidenced by her actions in maintaining them far longer than ethical standards require, she did not act in good faith or with ethics. As her history reveals, Pat has never acted in good faith. As far back as 2003 and throughout the duration of her 41 year marriage to Appellant's ex-husband, she has misappropriated marital assets and perjured herself in the court to gain a lucrative spousal maintenance agreement. CP 45, page 2

Through the 9 years that the Appellant and David supported her to the fullest extent of their abilities, Pat maintained that she still required their full support so that she would not become a “bag-lady”. Pat had never acted in good faith. CP 45, page 4

## **VI. CONCLUSION**

The 17 months duration that the lis pendens remained on Appellant’s property after evidence had been submitted proving the validity of the property transfer of the two condominiums should have caused the immediate withdrawal of the lis pendens and the suit. The lis pendens placed against the Appellant’s separate property should have never been placed but, again, should have been removed immediately once the evidence had been submitted proving Pat had no substantial justification.

Pat’s attorney’s filing of an unethical ex parte Order of Appellant’s Dismissal with Prejudice was a desperate attempt to avoid penalties for financially abusing and exploiting the Appellant without cause, and with malice.

The case is not about placing the lis pendens. That action could have been remedied quickly and without harm to the Appellant. The damages have come from allowing the lis pendens to remain without cause on the Appellant's property.

The trial court's ruling did not address the delay in removing them and this delay was the proximate cause of the damages.

*Irida Twiss-Don*

*8/3/16*

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Appellant's Name

Date

## RETURN OF SERVICE

State of WASHINGTON

County of APPEALS

Division 2 Court

Case Number 486880-6-11

Plaintiff

**LINDA TIOKASIN- ORR**

vs

Defendant

**ESTATE OF PATRICIA SPRUANCE ORR**

For

Linda Orr Tiokasin

4616 Ne 134th St

Vancouver, WA 98686

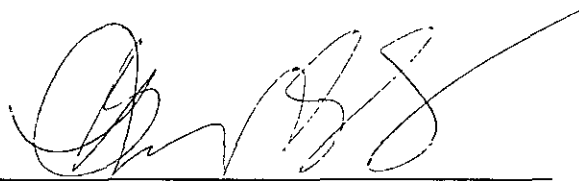
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DIVISION II  
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STATE OF WASHINGTON  
BY DEPUTY

I, Bruce A Samuelson, Sr., do hereby affirm that on the **3rd day of August, 2016 at 4:04 pm, I:**

**SUBSTITUTE** served by delivering a true copy of the **BRIEF OF APPELLANT** with the date and hour of service endorsed thereon by me, to: **AUDRA** as **RECEPTIONIST**, a person employed therein and authorized to accept service for **STEVE TURNER** at the address of: **1409 FRANKLIN ST, STE 216, VANCOUVER, WA 98660**, the within named person's usual place of **Work**, in compliance with State Statutes.

I certify that I am a competent person over the age of 18 and a resident of the State of Washington; I am not a party to nor an officer, director or employee of, nor attorney for any party. The entity served is the same entity named in the action.



**Bruce A Samuelson, Sr.**  
3682177

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## RETURN OF SERVICE

State of WASHINGTON

County of APPEALS

Division 2 Court

Case Number: 486880-6-11

Plaintiff:

**LINDA TIOKASIN- ORR**

vs.

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**ESTATE OF PATRICIA SPRUANCE ORR**

For:

Linda Orr Tiokasin

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Vancouver, WA 98686

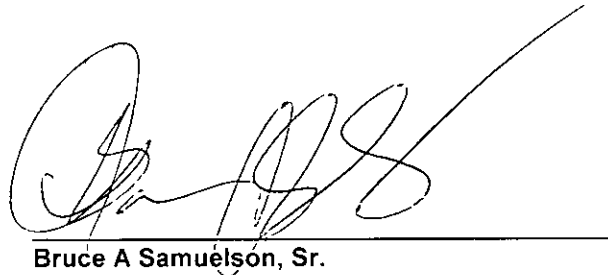
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I, Bruce A Samuelson, Sr., do hereby affirm that on the **3rd day of August, 2016 at 4:04 pm, I:**

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I certify that I am a competent person over the age of 18 and a resident of the State of Washington; I am not a party to nor an officer, director or employee of, nor attorney for any party. The entity served is the same entity named in the action



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